

# THE COMMITTEE ON ENERGY AND COMMERCE

---

## INTERNAL MEMORANDUM



November 30, 2011

TO: Members, Subcommittee on Energy and Power

FROM: Committee Staff

RE: Hearing on “Expediting the Keystone XL Pipeline: Energy Security and Jobs”

On Friday, December 2, 2011, at 10:00 a.m. in room 2123 of the Rayburn House Office Building, the Subcommittee on Energy and Power will hold its fourteenth day of the “American Energy Initiative” hearing. This day of the hearing will be entitled “Expediting the Keystone XL Pipeline: Energy Security and Jobs.”

### I. WITNESSES

#### Panel 1

Brent Booker  
Director, Construction Department  
Laborers’ International Union of North America

Jeffrey Soth  
Assistant Director, Department of Legislative  
and Political Affairs  
International Union of Operating Engineers

David Barnett  
Special Representative  
Pipe Line Division  
United Association of Journeyman and  
Apprentices of the Plumbing and Pipe Fitting  
Industry of the United States and Canada

Bruce Burton  
International Representative  
International Brotherhood of Electrical  
Workers

Additional witnesses may be added.

### II. BACKGROUND

The Keystone XL pipeline is the proposed 1,661 mile expansion of the existing Keystone pipeline system running from Hardisty, Alberta, Canada, to the U.S. Midwest. While the current pipeline has terminus points in Patoka, IL, and Cushing, OK, the proposed XL extension would lay new pipe from Hardisty to Steele City, KS and from Cushing to Port Arthur and Houston, TX. The expansion of the system will increase the pipeline’s throughput from 590,000 barrels per day to 1.4 million barrels per day. The product transported in the line will originate from Alberta’s oil sands deposits and the Bakken formation in North Dakota and Montana. Some estimates project the construction of the pipeline will create up to 20,000 direct jobs. Once completed, the project could

create as many as 118,000 additional jobs. Six major labor unions have signed Project Labor Agreements with TransCanada, the pipeline developer, to build and maintain the pipeline.

Since the Keystone XL pipeline crosses an international border, TransCanada is required to obtain a Presidential Permit to build the pipeline. The process of application, review, and approval is defined under Executive Order 13337 and conforms to National Environmental Protection Act (NEPA) standards. The State Department is the lead agency in the process and is charged with determining whether or not the pipeline is in the national interest. This finding is required for a Presidential Permit to be issued.

TransCanada submitted its Application for a Presidential Permit to the State Department in September 2008. In April 2010, the State Department issued its Draft Environmental Impact Statement (DEIS) for the project. Following Executive Order 13337, the DEIS underwent technical review by the Environmental Protection Agency (EPA), which determined the DEIS was “inadequate” – its lowest grade (among three) for an Environmental Impact Statement. This forced the State Department to produce a Supplemental Draft Environmental Impact Statement (SDEIS) to address EPA objections. The SDEIS, released in April 2011, found “no new issues of substance.” EPA’s review of the SDEIS determined there was “insufficient information” in the SDEIS – a grade which did not trigger another supplemental review but required that certain factors undergo further analysis in the Final Environmental Impact Statement (FEIS). In August 2011, the State Department issued its FEIS and initiated 30-day public comment and 90-day agency comment periods. In the FEIS, the State Department declared its “preferred alternative” was to build the pipeline as proposed with no major route or system modifications.

While the 90-day agency comment period was scheduled to conclude on November 24, on November 10, the State Department announced it would seek a new route through the State of Nebraska for the Keystone XL pipeline. After identifying a new route, a comprehensive environmental review would commence which is estimated to be completed in the first quarter of 2013. Under this scenario, 50 to 54 months will have elapsed from the time of application to final decision. The normal length of time for a Presidential Permit to be granted or denied for similar projects has been 18 to 24 months. It is possible the length of delay will pose significant problems for TransCanada to meet delivery contracts currently scheduled to begin in 2014, which could jeopardize the project.

The State Department announced that its decision to pursue another route is the result of issues raised during the 30-day public comment period for the FEIS. The public comment period revealed disagreement over the proposed route traversing the Sand Hills region of Nebraska, an area of highly-permeable soil atop the Ogallala Aquifer, a major source of drinking and irrigation water for the Great Plains. However, the FEIS had evaluated and declined 13 alternative routes for the pipeline which would avoid the aquifer.

Since the announcement of another delay by the State Department, the State of Nebraska has acted to move the pipeline route itself. On November 22, the Governor of Nebraska signed a bill which authorizes the Nebraska Department of Environmental Quality to review a new route for Keystone XL to avoid the Sand Hills within the state’s borders. Once the review concludes the Governor would

submit the new route to the State Department for approval. However, the State Department contends its 12 to 15 month environmental review will continue regardless of Nebraska's actions.

### **III. ISSUES**

The following issues are expected to be examined at the hearing:

- The review process moving forward for the Keystone XL pipeline;
- The effect of Nebraska's new law on the NEPA process;
- The economic impact of the pipeline's construction and operation or lack thereof;
- Options to ensure timely review of the pipeline application; and,
- The sufficiency of Nebraska's environmental review versus additional State Department review.

### **IV. STAFF CONTACT**

If you have any questions regarding the hearing, please contact Garrett Golding at (202) 225-2927.